

Application No. 10/561,430
Amtd. Dated: March-21-2011
Reply to Office Action: Dec-21-2010

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REMARKS/ARGUMENTS

The allowance of claims 27 to 29 is gratefully acknowledged. A typographical error has been noted in claim 27, line 29, wherein the term "several" should read "second", in accordance with the language of line 27. This correction has been made.

The indication of allowable subject matter in claims 11 to 26 is also gratefully acknowledged. Having regard thereto, claim 1 has been amended to incorporate the subject matter of claim 11, claim 11 has been deleted and the dependencies of the claims adjusted accordingly.

It is further noted that certain claims utilize the term "preferably". This term has been deleted from the respective claims and additional subclaims 30 to 43 have been added directed to the subject matter thereof. Authorization to charge the prescribed fees for the additional subclaims is included herein.

The Examiner rejected claims 1 to 10 under 35 USC 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention, with respect to two items.

First, the Examiner indicated that claim 1 is rendered vague and indefinite by the phrase "forming a canola protein isolate having a protein content of at least about 90 wt% (N x 6.25)". No objection to claim 11 was taken in this respect. Accordingly, inclusion of the subject matter of claim 11 into claim 1, as indicated above, should resolve any indefiniteness perceived to exist in the current language.

Second, the Examiner considered that claim 1 recites the limitation "the intact canola oil seeds" for which there is insufficient antecedent basis in the claims. Applicant inadvertently omitted from line 2 of claim 1 the term "from intact canola oil seeds". This phrase has been added to amended claim 1, thereby providing the necessary antecedent basis for the term to which objection was taken.

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Accordingly, it is submitted that all claims comply with the provisions of 35 USC 112, second paragraph, and hence the rejection should be withdrawn.

The Examiner maintained rejection of claims 1 to 4 and 8 to 10 under 35 USC 103(a) as being unpatentable over Higgs et al (US 6,955,831) in view of Cisneros (US 6,808,621). This rejection did not include rejection of claim 11. The subject matter of claim 11 now appears in claim 1.

Accordingly, it is submitted that all claims are patentable over the applied prior art and hence the rejection of claims 1 to 4 and 8 to 10 under 35 USC 103(a) as being unpatentable over Higgs et al in view of Cisneros, should be withdrawn.

The Examiner objected to claims 11 to 26 as being dependent on a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 11 has been rewritten in independent form by incorporating the subject matter of claim 11 into claim 1. All other claims, with the exception of claims 27 to 29, are dependent, directly or indirectly, on amended claim 1.

The Examiner indicated claims 27 to 29 to be allowed. As noted above, a minor wording change is required to claim 27. Having regard to the amendments made to the claims, it is submitted that all claims are in an allowable form.

Entry of this Amendment after Final Action is requested in that the application thereby is placed in an allowable form. In the event the Examiner considers one or more ground of rejection to remain, this Amendment nevertheless should be entered, since the claims thereby are placed in better conditions for appeal.

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It is believed that this application is now in condition for allowance and early and favourable consideration and allowance are respectfully solicited.

Respectfully submitted,


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